Remarks of Ambassador Bleich
at the Law of the Sea Institute Conference
University of Wollongong

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Thanks John for that very kind introduction. It is great to see you again.

I know how perilous making introductions can be. I recently had to give an introduction to President Obama to members of the U.S. Embassy. Now, anyone who doesn't know about the President who works at the U.S. Embassy probably has made a serious error in their choice of career. But to see how other people have introduced Presidents, and I found the cautionary tale of Senator Chauncey DePew. He was called upon to introduce President Taft. Now Taft was a larger than life man. In addition to being President, he went on to become Chief Justice of the U.S. Supreme Court. He was also larger than life physically, weighing over 315 pounds, with a very large stomach. So at the conclusion of the introduction, he said "Ladies and gentlemen, I give you a man, pregnant with integrity; a man pregnant with courage. President William Taft."

So President Taft walks to the podium. He rubs his stomach. And he says: "If it is a girl, we shall name her 'integrity.' If it is a boy, we shall name him 'courage.' But if, as I suspect, it is only gas, we shall call it Chauncey Depew."

So, you did a terrific job there, John, navigating that introduction. I also want to thank the Law of the Sea Institute, the University of California, Berkeley, and the Australian National Center for Ocean Resources and Security here at the University of Wollongong for putting together this conference and inviting me to participate.

You have drawn together just about the entire global pool of expertise on law of the sea matters, and there have been some fascinating discussions today on topics that have been right at the top of our policy agendas, and newspaper headlines, from management of depleted fisheries to the conflicting territorial claims in the South China Sea.

I'm well aware that no one ever complained that a U.S. Ambassador did not speak long enough. Given the fact that I am probably the person here with the least expertise on the subject matter at hand, I will take that advice and briefly explain the United States view on the UN Law of the Sea Convention. And I'll come right to the point: The United States would advance many of its interests as a party to the Law of the Sea Convention.

That was true in 1994, when President Clinton submitted the Convention and the Part XI Agreement to the Senate. It remained true throughout the George W. Bush Administration. And it remains true today.

So this will be the 17th annual U.S. statement on why our nation should ratify UNCLOS and explanation for why we have not yet done so. I admit that it is a real challenge to say anything truly new on this topic, or to say it better, than others have said countless times before – including many of the people in this room.

But I hope you'll bear with me as I lay out the eight traditional reasons why we see accession as in our clear national interest, and then I hope to offer three new reasons that have been illuminated by recent discoveries and events.

The Stakes for America

1. **Maritime Power:** The United States is the world's leading maritime power and so has the most to gain by ensuring freedom of navigation. Only as a party can we fully invoke and ensure observance of the rules of the Convention. Ratification means protecting our freedom of navigation to advance our own commercial and national security interests.

2. **Securing Full Recognition of America's EEZ:** The United States has the world's largest exclusive economic zone (EEZ) and a continental shelf that is likely to be the envy of most other States. As a party we would enhance our rights as a coastal State. The treaty secures international legal recognition of the outer limits of our vast continental shelf.

3. **Protecting the Oceans:** The U.S. is committed to protecting our oceans and preventing over-fishing. The Convention's provisions on environmental protection advance that agenda; they protect the marine environment and support a crucial regime to manage ocean fisheries.

4. **Responsible Mining:** As a Party the United States could better craft the rules for mining the seabed beyond national jurisdiction. It would also allow the United States to sponsor a U.S. company seeking to engage in such mining.

5. **Resolving Disputes:** Ratification would allow the United States to use the dispute settlement provisions of the Convention – which are good ones. They are comprehensive and flexible. As a party, moreover, we could nominate a U.S. national for a seat on the Law of the Sea Tribunal and participate in elections for those seats to help ensure decisions are rendered by the best jurists drawn from all over the world.

6. **Influence:** As a party, the United States would maximize our leadership and influence on all other international oceans issues under discussion within the Law of the Sea framework.

7. **The Alternatives Are Inferior:** For those keeping score, this is now the seventh reason. Simply put, the alternative -- relying solely on customary international law, or on operational and diplomatic challenges – is not adequate to protect our rights from erosion.

8. **Improvement of the Treaty:** The only reason we did not become a party in the 1980s was due to our objections to Part XI of the Convention. The 1994 Implementing Agreement addressed those objections.

That is our standard catechism on why the United States ought to accede to the Convention, one that I'm sure is familiar to just about everyone in this room. But let me offer three other ideas that, if not exactly new, represent the importance of ratification in light of improved knowledge.

The Arctic Ocean

The first concerns issues currently in discussion in two regions -- the Arctic Ocean and the South China Sea.

The Arctic is hot – figuratively speaking – in large part because the region is warming – literally speaking.

The Convention provides the basic framework for managing the emerging issues in the Arctic Ocean, including increased shipping, hydrocarbon development, environmental protection, marine scientific research and, of course, determination of the outer limits of continental shelves.

All other Arctic nations are parties. We are the odd ones out. At a minimum, this complicates our diplomacy and weakens our credibility and clout to shape the future of the Arctic Ocean to our liking.

Likewise, with regard to the South China Sea. The United States has made clear that it does not have any claims in that region, nor does it advocate the claims of any other nation. However, we do have a very strong interest in ensuring that those disputed claims are worked out peacefully through negotiations or other procedures consistent with the rule of law.

Extended Continental Shelf

Second, the Convention advances the U.S. interest in its extended continental shelf, or ECS.

As I mentioned, our status as a non-party hurts our efforts to secure international recognition of (and legal certainty about) the outer limits of our continental shelf – in the Arctic and elsewhere. But this disadvantage has become much more apparent recently.

By last count, 56 other nations have made partial or full submissions to the Continental Shelf Commission in support of their claims to continental shelf beyond 200 nautical miles. Many others have submitted preliminary information. The Commission has already issued 14 sets of recommendations. As you know, the outer limits of continental shelves finalized on the basis of these recommendations are final and binding.

All of this is going on without U.S. participation.

Initial estimates indicate the U.S. ECS – just the portion beyond 200 nautical miles from shore – is at least 1 million square kilometers or about twice the size of California. We know the United States has an extensive, extended continental shelf off our Atlantic seaboard, in the Gulf of Mexico, in the Bering Sea, and in the Arctic Ocean. Recent analyses and data collection suggest an even larger ECS, in these and possibly other areas.

In our view, a State does not need to be a party to the Convention to be entitled to continental shelf beyond 200 nautical miles. But joining the Convention would provide at least three advantages:

First, it would remove any uncertainty about our sovereign rights with respect to our extended continental shelf as a matter of treaty law.

Second, it would give us access to the Continental Shelf Commission. The Commission's technical recommendations provide confidence over the exercise of those rights. Without it, U.S. companies are less likely to engage in valuable exploration and exploitation of the resources of the ECS.

The oil spill in the Gulf of Mexico demonstrates how sensitive and perilous offshore exploitation can be. We don't want to exclude our most careful and risk-averse companies from this work.

Finally, it would allow us to nominate a U.S. national to the Commission.

But whether the United States chooses to exploit those resources or chooses not to, the point is that we are better off being the ones to make that choice over as large an area of seafloor as possible.

Geopolitical Stake

Third, ratification advances a broader agenda of the Obama Administration: multilateral engagement.

Here in the Asia-Pacific, this Administration has shown renewed commitment to building and supporting institutions that can help maintain peace and prosperity. We have signed the Treat of Amity and Cooperation with ASEAN, we have joined the East Asia Summit, and just last week we announced a nine-nation Trans-Pacific Partnership to expand free trade across the region.

Accession to the Law of the Sea Treaty furthers our commitment to hard-headed multilateral solutions.

Demystifying the Convention

The impediments to ratification have not been policy based; they reflect political judgments. The U.S. Commitment to Oceans-related agreements has been long-standing and historically it has been bipartisan. The Law of the Sea Convention actually forms part of a long tradition of oceans-related agreements that the United States has already ratified. We are party to several treaties on the law of the sea developed by the United Nations in the late 1950s.

We are also party to many treaties on international shipping negotiated at the International Maritime Organization, many of which give effect to basic norms of the Law of the Sea Convention.

The United States has helped define the field of international fisheries and is party to many fisheries treaties, including the 1995 UN Fish Stocks Agreement – legally part of the Law of the Sea Convention.

I think you see the point. The United States has long ago accepted – indeed, has advocated for – the rule of law in the oceans on the basis of widely ratified treaties. The Law of the Sea Convention should not be regarded as anything other than the well-accepted framework for the rule of law in the oceans.

It is time the United States joined the Convention, and accession is a top priority of the Obama Administration. Secretary Clinton in particular is working with Senate leadership

in hopes that the Senate will take up and approve this treaty at the earliest opportunity. While I don't have a crystal ball and can't hazard a guess as to when that might happen, I'm optimistic that the force of reason will win out and the United States will join Australia and the other 160-plus countries that are Parties to the Convention.